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SUBJECT: EL PAIS ARTICLE CRITICAL OF ASPECTS OF THE FIGHT  
AGAINST TERRORISM FINANCE

¶1. Summary: El Pais, Spain's most influential daily paper, and the one most closely aligned with the current Socialist government, has run an article called "The list nobody wants to be on: The system of rosters featuring details of suspected terrorists must be improved, experts believe." The article can be downloaded by accessing the September 5 edition of El Pais and going to the English edition. However, in order to access the article, a subscription is required. Please e-mail SchonanderCE@state.gov to request a faxed version of the article if desired. El Pais is Spain's leading daily and is generally pro-government. The Ministry of Foreign Affairs (MFA) counterterrorism coordinator, Angel Lossada, is quoted by name and unnamed Economy Ministry officials are also quoted. The newspaper is often used to float government opinions. Our sense, also based on other interactions with GOS officials, is that the article captures fairly accurately GOS opinions on terrorism finance matters, especially designations. End Summary

¶2. The allegations and opinions in the article are linked to the case of the Syrian-born but naturalized Spanish citizen, Ahmad Mardini. Mardini has lived in Spain for 36 years. He was arrested in November, 2001, probably because five years earlier, he had sold a shop to Osama Darra and Mohammend Needl, who have been sentenced by Spain's High Court for providing financial assistance to the jihadist cause(s). Although Mardini was released after five days and has not been prosecuted for any crime by Spanish authorities, he lost his job at Coca Cola and was not able to conduct financial transactions. The newspaper reports that Mardini's name appears on a "control list" sent to financial institutions by the Federal Reserve Bank of New York. According to Mardini, he has not been able to resume a normal financial life: "Whom can I turn to? For months my brother has been sending me money from Germany in my wife's name to avoid problems. I'm still a terrorist suspect. Isn't that crazy?"

¶3. The key assertion in the article is: "Almost all of the bank accounts seized in Spain since September 11, 2001, held by people on the international lists of terrorists drawn up by the UN and the European Union, have been seized by mistake, according to sources close to the General Directorate of the Economy". El Pais goes on to quote an unnamed Ministry of Finance source: "We have to unfreeze the vast majority of the frozen accounts. Either they were similar names or cases of two people sharing the same name, like that of a person who lived in Seville." According to El Pais, between 2001 and 2006, some Euros 36,000 have been frozen involving accounts belonging to 97 people, most of them Muslims. Only Euros 83.75 remains frozen, and most of the blocked accounts were empty. (Note: Spain has frozen roughly a half a million dollars worth of suspected terrorist assets, but the vast majority of these funds were frozen prior to 9/11.) A Spanish Federation of Savings Banks (CECA) source told El Pais: "We have had a lot of incidents because the lists are not accurate and contain errors. There are

many innocent people whose names coincide with Arabic names and terrorists".

¶4. El Pais characterizes the seizure of bank accounts held by suspected terrorists as an "Anglo-Saxon tool". Afterwards, the newspaper describes and/or mentions the State Department's Specially Designated Global Terrorist list (SDGT), the list maintained by the Office of Foreign Assets Control (OFAC), a Commerce Department list, a CIA list, a list maintained by the Financial Action Task Force on non-cooperative countries, the Canada Consolidated List, the World Bank Barred Parties list, the Blocked Officials File, a UK list and two additional lists used in Europe as a result of UN initiatives. The article notes correctly that an individual need not have been convicted of anything in order to be designated as a terrorist for asset freezing purposes. However, El Pais quoted an unnamed "civil servant" based in Brussels (presumably Spanish) as saying: "Spain has been used as an example by the staunchest defenders of due processes. We only add individuals or groups with a final criminal sentence". Spain's MFA counter-terrorism coordinator Angel Lossada appears to support this view. He is quoted by name as saying: "Some countries like the Netherlands, support the need to apply this to other kinds of administrative, police-related or intelligence decisions. The advantage is the effectiveness in terms of prevention, but with the loss of rights." He went on to say: "If the mistakes are not corrected, pressure from the financial operators will become intense. The lists must be kept up to date and not be based solely on their capacity to freeze funds, but on the political value of isolating those who appear on them; that terrorists must not be able to move freely around the global economic system."

¶5. Comment: We are confident that the Spanish financial

authorities search for assets upon prenotifications and notifications. The fact that 97 people, according to the article, have had assets frozen since 9/11 indicates just that. However, our assessment is that Spanish authorities would welcome a greater emphasis on operational cooperation. Septel provides recommendations on closer cooperation. Moreover, it would be helpful to get guidance on how more rigorous development of identifying information in U.S. designation packages is making the risk of false positives much less likely.

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